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UNITED STATES DEPARTMENT OF JUSTICE
ENVIRONMENT & NATURAL RESOURCES DIVISION
ENVIRONMENTAL ENFORCEMENT SECTION
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UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO

UNITED STATES OF AMERICA,)	Civ. No. 2:04-cv-00126
)	
Plaintiff,)	
)	CONSENT DECREE
v.)	
)	
PLACER MINING Company, Inc. (dba New)	
Bunker Hill Mining Co.), and)	
)	
ROBERT HOPPER, Jr.)	
)	
Defendants.)	
)	

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I. BACKGROUND

A. The United States of America ("United States"), on behalf of the Administrator of the U.S. Environmental Protection Agency (EPA), filed a complaint in this matter pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9607 (CERCLA), seeking reimbursement of response costs incurred and to be incurred for response actions taken at or in connection with the release or threatened release of hazardous substances at the Bunker Hill Mine Property in Kellogg, Idaho ("the Property").

B. The United States and Settling Defendants agree, and this Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith, that settlement of this matter without further litigation and without the admission or adjudication of any issue of fact or law is appropriate and will avoid prolonged and complicated litigation between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

THEREFORE, with the consent of the Parties to this Decree, it is ORDERED, ADJUDGED, AND DECREED:

II. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. §§ 9607 and 9613(b) and also has personal jurisdiction over Settling Defendants. Solely for the purposes of this Consent Decree and the underlying complaints, Settling Defendants waive all objections and defenses that they may have to jurisdiction of the Court or to venue in this District. Settling Defendants shall not challenge entry or the terms of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

III. PARTIES BOUND

2. This Consent Decree is binding upon the United States and upon Settling Defendants and their heirs, successors, and assigns. Any change in ownership or corporate or other legal status, including but not limited to, any transfer of assets or real or personal property, shall in no way alter the status or responsibilities of Settling Defendants under this Consent Decree.

IV. DEFINITIONS

3. Unless otherwise expressly provided in this Consent Decree, terms used in this Consent Decree that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meanings assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Consent Decree or its appendices, the following definitions shall apply:

"Bunker Hill Mine" or the "Mine" shall mean all of Settling Defendants' real and personal property any interest in which is being transferred to Bunker Hill Mining Corp., formerly Liberty Silver Company, by lease and/or sale. The real property to be transferred and constituting, for purposes of this Agreement, the Bunker Hill Mine, is described in the Lease Agreement and Option to Purchase attached hereto as Appendix 1.

“Bunker Hill Mining Corp.,” formerly Liberty Silver Corp. (“Bunker Hill Mining”), is a Nevada corporation and is the lessee and anticipated purchaser of the Bunker Hill Mine. On or about the execution date of this Consent Decree, Bunker Hill Mining is entering an Administrative Settlement Agreement (“Settlement Agreement”) with the EPA pursuant to which Bunker Hill Mining assumes certain obligations for CERCLA response actions at the Mine, as further specified in the Settlement Agreement, and agrees to remit certain payments to EPA in satisfaction of Settling Defendants’ liability for EPA response costs incurred in connection with the Mine. Settlement Agreement is attached hereto as Appendix 2 and incorporated herein.

“Bunker Hill Special Account” shall mean the special account, within the EPA Hazardous Substance Superfund, established for the Site by EPA pursuant to Section 122(b)(3) of CERCLA, 42 U.S.C. § 9622(b)(3).

“CERCLA” shall mean the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675.

“Consent Decree” shall mean this Consent Decree and all appendices attached hereto. In the event of conflict between this Consent Decree and any appendix, the Consent Decree shall control.

“Day” or “day” shall mean a calendar day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal or State holiday, the period shall run until the close of business of the next working day.

“DOJ” shall mean the U.S. Department of Justice and its successor departments, agencies, or instrumentalities.

“Effective Date” shall mean the date upon which the approval of this Consent Decree is recorded on the Court’s docket.

“EPA” shall mean the U.S. Environmental Protection Agency and its successor departments, agencies, or instrumentalities.

“EPA Hazardous Substance Superfund” shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

“Interest” shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year. Rates are available online at <https://www.epa.gov/superfund/superfund-interest-rates>.

“National Contingency Plan” or “NCP” shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

“Paragraph” shall mean a portion of this Consent Decree identified by an Arabic numeral or an upper or lower case letter.

“Parties” shall mean the United States and Settling Defendants.

“Past Response Costs” shall mean all costs, including but not limited to direct and indirect costs, that EPA or DOJ on behalf of EPA has incurred at or in connection with the Mine through November 1, 2017, plus accrued Interest on all such costs through such date.

“Plaintiff” shall mean the United States Environmental Protection Agency, and its successor departments, agencies, or instrumentalities.

“Property” means all real property owned or controlled by Settling Defendants, including, but not limited to, any interest in the Bunker Hill Mine that has been or will be transferred to Bunker Hill Mining Corp., formerly Liberty Silver Corp., where EPA determines, at any time, that access or land, water, or other resource use restrictions are needed to implement response actions at the Site.

“RCRA” shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901-6992 (also known as the Resource Conservation and Recovery Act).

“Section” shall mean a portion of this Consent Decree identified by a Roman numeral.

“Settling Defendants” shall mean Placer Mining Company, Inc., d/b/a the New Bunker Hill Mining Co., and Robert Hopper, Jr., as successor in interest to Robert Hopper, Sr., deceased.

“Site” shall mean the Bunker Hill Mining and Metallurgical Superfund Site, encompassing approximately 21 square miles along Interstate 90 in the Silver Valley area of Northern Idaho, located in Shoshone County, Idaho, and depicted generally on the map attached hereto as Appendix 4.

“State” shall mean the State of Idaho.

“Transfer” shall mean to sell, assign, convey, lease, mortgage, or grant a security or other interest in any real or personal property, or where used as a noun, a sale, assignment, conveyance, or other disposition of any interest by operation of law or otherwise.

“United States” shall mean the United States of America and each department, agency, and instrumentality of the United States, including EPA.

V. PAYMENT OF RESPONSE COSTS

4. **Payment by Settling Defendants for Past Response Costs.** Settling Defendants have executed a Lease Agreement and Option to Purchase whereby Settling Defendants agree to lease the Bunker Hill Mine to Bunker Hill Mining Corp., formerly Liberty Silver Corp., for a lease term of two years with an option to purchase the Mine outright or extend the lease at the end of the lease term. Settling Defendants agree that part of the consideration for the lease and sale of the Mine shall consist of Bunker Hill Mining’s payment to the United States of \$20 million in satisfaction of Settling Defendants’ liability for past costs incurred by the United States responding to releases and threatened releases of hazardous substances from the Property.

Bunker Hill Mining's agreement to make payments to the United States in satisfaction of Settling Defendants' liability is set forth in the Settlement Agreement entered into between the United States and Bunker Hill Mining attached hereto as Appendix 2. Bunker Hill Mining shall make the payments to the United States in satisfaction of Settling Defendants' liability in accordance with the following schedule:

Within 30 days of the Effective Date: \$1,000,000

November 1, 2018: \$2,000,000

November 1, 2019: \$3,000,000

November 1, 2020 \$3,000,000

November 1, 2021 \$3,000,000

November 1, 2022 \$3,000,000

November 1, 2023 \$3,000,000

November 1, 2024 \$2,000,000

5. Bunker Hill Mining, on behalf of Settling Defendants, shall make payment to EPA by Fedwire Electronic Funds Transfer (EFT) to:

Federal Reserve Bank of New York

ABA = 021030004

Account = 68010727

SWIFT address = FRNYUS33

33 Liberty Street

New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D
68010727 Environmental Protection Agency"

Such payment shall reference Site/Spill ID Number 1020 and the EPA docket number for this action.

6. **Deposit of Payment.** The total amount to be paid pursuant to Paragraph 4 shall be deposited by EPA in the Bunker Hill Special Account to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

7. **Notice of Payment.** At the time of payment, Settling Defendants shall send notice that payment has been made to EPA and DOJ in accordance with Section XV (Notices and Submissions) and to the EPA Cincinnati Finance Center by email or by regular mail at:

Email: cinwd_acctsreceivable@epa.gov

Regular mail: EPA Cincinnati Finance Center
26 W. Martin Luther King Drive
Cincinnati, Ohio 45268

Such notice shall reference the CDCS Number, Site/Spill ID Number 1020, and DJ Number 90-11-3-128/3.

8. **Potential Alteration of Payment Schedule.** The Parties acknowledge that circumstances may arise necessitating alteration of the payment schedule set forth in Paragraph 4, above, and the Settlement Agreement. The Parties to this Consent Decree, as well as Bunker Hill Mining, address here and in the Settlement Agreement attached as Appendix 2, those circumstances that are reasonably foreseeable to them at this time:

a. If Bunker Hill Mining cancels or defaults on the lease, or the lease terminates for any reason other than expiration of the lease term (or any extended lease term) or Bunker Hill Mining's purchase of the Mine:

- * the covenant not to sue Settling Defendants is rescinded and void;
- * Bunker Hill Mining shall pay in full any outstanding payment due for water treatment;
- * Settling Defendants shall, on or before the first day of the month following Bunker Hill Mining's cancellation or default on the lease, or termination of the lease or any extended lease term for any reason other than transfer to Bunker Hill Mining of title to the Mine, pay EPA's estimated water treatment costs for the upcoming 3 months;
- * Settling Defendants shall be liable for all unpaid past and future EPA response costs, including water treatment costs.
- * Settling Defendants shall comply with all requirements set forth at Section XII below.

b. If Bunker Hill Mining extends the lease term:

- * Bunker Hill Mining shall continue to make payments for water treatment in accordance with the schedule set forth in the Settlement Agreement and shall remit past response costs payments to the United States as provided in Paragraph 4, above, and in the Settlement Agreement;
- * Settling Defendants shall remain liable for all unpaid past and future EPA response costs, including water treatment costs.
- * Settling Defendants shall comply with all requirements set forth at Section XII below.

c. If Bunker Hill Mining does not purchase the property at the end of the lease term (or any extended lease term):

- * the covenant not to sue Settling Defendants is rescinded and void;
- * Settling Defendants shall, on or before the first day of the month following Bunker Hill Mining's cancellation or default on the lease, or termination of the lease or any extended lease term for any reason other than transfer to Bunker Hill Mining of title to the Mine, pay EPA's estimated Mine water treatment costs for the upcoming 3 months;
- * Settling Defendants shall be liable for all unpaid past and future EPA response costs, including Mine water treatment costs.
- * Settling Defendants shall comply with all requirements set forth at Section XII below.

d. If Bunker Hill Mining purchases the Mine and transfers all or substantially all of its interest in the Mine prior to Bunker Hill Mining having made all payments as specified in Paragraph 4, above, and in the Settlement Agreement:

- * the payment schedule set forth in Paragraph 4, above, and in the Settlement Agreement is accelerated such that all payments thereunder become due and payable to the United States upon such transfer;
- * to the extent that the consideration realized by Bunker Hill Mining by the transfer of its interest exceeds Bunker Hill Mining's documented investment in the Mine plus 10% of that investment, the United States is entitled to an 80% share of such excess until the United States has been reimbursed in the amount of its \$24 million past costs incurred at the Property plus interest as provided by 42 U.S.C. 9607;
- * at any time that Bunker Hill Mining transfers substantially all of its interest in the Mine, such transfer must be conditioned upon Transferee reaching agreement with the United States regarding ongoing responsibility for Mine water treatment costs.

e. If Bunker Hill Mining purchases the Mine and files for bankruptcy or ceases operating at the Mine at any time prior to its remittance to the United States of all payments due under the Settlement Agreement and Paragraph 4, above, then:

- * the United States shall be deemed a secured creditor of Bunker Hill Mining to the extent of all payments required under the Settlement Agreement and Paragraph 4, above, and not remitted at the petition date;
- * the covenant not to sue Settling Defendants is rescinded and void;
- * Settling Defendants shall be liable for all unpaid past and future EPA response costs, including Mine water treatment costs.

f. If Bunker Hill Mining fails, for any reason, to satisfy in full all requirements of the Settlement Agreement, then Settling Defendants shall be responsible to perform any remaining requirements upon being notified by EPA of such failure.

VI. FAILURE OF THE SALE OF THE MINE TO BUNKER HILL MINING

9. In the event that title to the Mine remains in, or re-vests in, Settling Defendants, or any of them, then Settling Defendants shall be liable for all unpaid past and future EPA response costs, including Mine water treatment costs and interest on late payments, and the Covenants by Plaintiff set forth in Section VIII and the contribution protection afforded by Section XI, below, shall be conditioned on Settling Defendants' payment of all EPA response costs.

10. For so long as Settling Defendants, or any of them, holds title to any of the Property, Settling Defendants shall comply with Section XII (Property Requirements) of this Consent Decree.

VII. FAILURE TO COMPLY WITH CONSENT DECREE

11. Notwithstanding Bunker Hill Mining's agreement to perform Work and to discharge Settling Defendants' liability for EPA past costs by remitting to the United States funds otherwise due Settling Defendants for lease or purchase payments, Settling Defendants shall remain liable for all unpaid Past Costs.

12. **Interest on Late Payments and Stipulated Penalty.** If any payment under Paragraph 4 (Payment by Settling Defendants for Past Response Costs) is not received by the date due, Interest shall continue to accrue on the total unpaid balance through the date of payment. If Settling Defendants do not comply with any requirement of this Consent Decree, Settling Defendants shall be in violation of this Consent Decree and shall pay to EPA, as a stipulated penalty, \$1000 per violation per day of such noncompliance.

a. Stipulated penalties are due and payable within 30 days after the date of the demand for payment of the penalties by EPA. All payments to EPA under this Paragraph shall be identified as "stipulated penalties" and shall be made by Fedwire EFT to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045
Field Tag 4200 of the Fedwire message should read
"D 68010727 Environmental Protection Agency"

If Settling Defendants have difficulty making EFT or online payments, Settling Defendants may make payments by regular first class United States mail, and shall identify all payments to EPA under this Paragraph as "stipulated penalties" and shall pay them by official bank check made

payable to "EPA Hazardous Substance Superfund." The check, or a letter accompanying the check, shall identify the name and address of the party making payment, the Site name, Site/Spill ID Number 1020, the CDCS Number, and DJ Number 90-11-3-128/3, and shall be sent to:

U.S. Environmental Protection Agency
Superfund Payments
Cincinnati Finance Center
P.O. Box 979076
St. Louis, MO 63197-9000

b. At the time of payment, Settling Defendants shall send notice that payment has been made to EPA and DOJ as provided in Paragraph 7 (Notice of Payment).

c. Penalties shall accrue as provided in this Paragraph regardless of whether EPA has notified Settling Defendants of the violation or made a demand for payment, but need only be paid upon demand. All penalties shall begin to accrue on the 91st day after payment or performance is due and shall continue to accrue through the date of payment or the final day of correction of the noncompliance or completion of the activity. Nothing in this Consent Decree shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree.

13. If the United States brings an action to enforce this Consent Decree, Settling Defendants shall reimburse the United States for all costs of such action, including but not limited to costs of attorney time.

14. Payments made under this Section shall be in addition to any other remedies or sanctions available to Plaintiff by virtue of Settling Defendants' failure to comply with the requirements of this Consent Decree.

15. The obligations of Settling Defendants to pay amounts owed the United States under this Consent Decree are joint and several. In the event of the insolvency of any Settling Defendant or the failure by any Settling Defendant or Bunker Hill Mining to make the payments required under this Consent Decree, the remaining Settling Defendant shall be responsible for such payments.

16. Notwithstanding any other provision of this Section, the United States may, in its unreviewable discretion, waive payment of any portion of the stipulated penalties that have accrued pursuant to this Consent Decree. Payment of stipulated penalties shall not excuse Settling Defendant from payment as required by Section V (Payment of Response Costs) or from performance of any other requirements of this Consent Decree.

VIII. COVENANTS BY PLAINTIFF

17. **Covenants for Settling Defendants by United States.** Except as specifically provided in Section IX (Reservation of Rights by United States), the United States covenants not to sue or to take administrative action against Settling Defendants pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), to recover Past Response Costs. These covenants shall take effect upon the Effective Date. These covenants are conditioned upon the satisfactory

performance by Settling Defendants of their obligations under this Consent Decree, including the payments by Bunker Hill Mining, on Settling Defendants' behalf, required by Paragraph 4 of this Consent Decree and by the Settlement Agreement. These covenants extend only to Settling Defendants and do not extend to any other person.

IX. RESERVATIONS OF RIGHTS BY UNITED STATES

18. The United States reserves, and this Consent Decree is without prejudice to, all rights against Settling Defendants with respect to all matters not expressly included within Paragraph 17 (Covenants for Settling Defendants by United States). Notwithstanding any other provision of this Consent Decree, the United States reserves all rights against Settling Defendants with respect to:

- a. liability for failure of Settling Defendants to meet a requirement of this Consent Decree and for Bunker Hill Mining's failure to make any payment required by this Consent Decree and the Settlement Agreement;
- b. liability for costs incurred or to be incurred by the United States that are not within the definition of Past Response Costs;
- c. liability for injunctive relief or administrative order enforcement under Section 106 of CERCLA, 42 U.S.C. § 9606;
- d. criminal liability; and
- e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments.

X. COVENANTS BY SETTLING DEFENDANTS

19. **Covenants by Settling Defendants.** Settling Defendants covenant not to sue and agree not to assert any claims or causes of action against the United States or its contractors or employees, with respect to Past Response Costs or past response actions on the Site and this Consent Decree, including but not limited to:

- a. any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;
- b. any claim arising out of the response actions at the Site for which the Past Response Costs were incurred, including any claim under the United States Constitution, the Constitution of the State of Idaho, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, the Uniform Relocation Assistance and Real Property Acquisition Policies Act, 42 U.S.C. § 4654(c), or at common law; or
- c. any claim pursuant to Section 107 or 113 of CERCLA, 42 U.S.C. § 9607 or 9613, Section 7002(a) of RCRA, 42 U.S.C. § 6972(a), or state law for Past Response Costs.

20. Nothing in this Consent Decree shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

21. **Settling Defendants' Dismissal of "Takings" Claims.** Settling Defendants agree to dismiss, with prejudice, their claims for damages in a certain Fifth Amendment taking case pending in the matter captioned Placer Mining Company, Inc., d/b/a the New Bunker Hill Mining Co. v. United States in the Court of Federal Claims, Civil Case No. 01-27 L, each party to bear its own costs in connection therewith. The parties agree that dismissal will be effected by the filing of a Joint Stipulation of the Parties under Rule 41(a)(1)(A)(ii) of the Rules of the Court of Federal Claims. The parties agree to file the Joint Stipulation of Dismissal within 28 days of the Effective Date. A draft Joint Stipulation is attached hereto as Appendix 3.

XI. EFFECT OF SETTLEMENT/CONTRIBUTION

22. Nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. Except as provided in Section X (Covenants by Settling Defendants), each of the Parties expressly reserves any and all rights (including, but not limited to, pursuant to Section 113 of CERCLA, 42 U.S.C. § 9613), defenses, claims, demands, and causes of action that it may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto. Nothing in this Consent Decree diminishes the right of the United States, pursuant to Section 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2)-(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

23. The Parties agree, and by entering this Consent Decree this Court finds, that this Consent Decree constitutes a judicially-approved settlement pursuant to which each Settling Defendant has, as of the Effective Date, resolved liability to the United States within the meaning of Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, or as may be otherwise provided by law, for the "matters addressed" in this Consent Decree. The "matters addressed" in this Consent Decree are Past Response Costs.

24. The Parties further agree, and by entering this Consent Decree this Court finds, that the complaint filed by the United States in this action is a civil action within the meaning of Section 113(f)(1) of CERCLA, 42 U.S.C. § 9613(f)(1), and that this Consent Decree constitutes a judicially-approved settlement pursuant to which each Settling Defendant has, as of the Effective Date, resolved liability to the United States within the meaning of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B).

25. Each Settling Defendant shall, with respect to any suit or claim brought by it for matters related to this Consent Decree, notify EPA and DOJ in writing no later than 60 days prior to the initiation of such suit or claim. Each Settling Defendant also shall, with respect to any suit or claim brought against it for matters related to this Consent Decree, notify EPA and DOJ in writing within 10 days after service of the complaint or claim upon it. In addition, each Settling Defendant shall notify EPA and DOJ within 10 days after service or receipt of any Motion for

Summary Judgment, and within 10 days after receipt of any order from a court setting a case for trial, for matters related to this Consent Decree.

26. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, recovery of response costs, or other relief relating to the Site, Settling Defendants shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the Covenants by Plaintiff set forth in Section VIII.

XII. PROPERTY REQUIREMENTS

27. **Agreements Regarding Access and Non-Interference.** Settling Defendants shall, with respect to the Property:

a. Provide the United States, potentially responsible parties who have entered or may enter into an agreement with the United States for performance of response action at the Site (hereinafter "Performing Parties"), and their representatives, contractors, and subcontractors with access at all reasonable times to the Property to conduct any activity relating to response actions at the Site including the following activities:

- (1) Verifying any data or information submitted to the United States;
- (2) Conducting investigations regarding contamination at or near the Site;
- (3) Obtaining samples;
- (4) Assessing the need for, planning, implementing, or monitoring response actions;
- (5) Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Settling Defendant or its agents, consistent with Section XIII (Access to Information);
- (6) Assessing Settling Defendant and any Performing Party's compliance with the Consent Decree and the Unilateral Administrative Orders issued to Settling Defendants on November 4, 1994 and May 31, 2017;
- (7) Determining whether the Property is being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted, under the Consent Decree; and
- (8) Implementing, monitoring, maintaining, reporting on, and enforcing any land, water, or other resource use restrictions regarding the Property.

b. Refrain from using its Property in any manner that EPA determines will (i) pose an unacceptable risk to human health or to the environment due to exposure to hazardous substances or (ii) interfere with or adversely affect the implementation, integrity, or protectiveness of response actions at the Site, including the following restrictions:

(1) Prohibiting the following activities which could interfere with response actions at the Site: drilling or other activities that would in any way damage or destroy the Mine Water Line, Pig Launch System, or other parts of the Mine Water conveyance system, filling the Reed Landing Flood Improvement Project conveyance system with any materials that diminish the full functional capacity of the system, discharging materials into any conveyance system which reports to the EPA-owned Lined Pond that are incompatible with the treatment system at the CTP, any surface work that would exacerbate infiltration into the mine workings (e.g. Guy Cave, Inez Shaft area in Deadwood Creek, West Fork of or mainstem Milo Creek) and thereby significantly affect water chemistry or flow rate of waters conveyed for treatment at the CTP, any significant change in water quality or quantity that results from investigations, exploration, repairs, expansion or alteration in mining activities that could significantly alter the chemistry or flow rate of waters to be treated at the CTP ;

(2) Ensuring that any new structures on the Property will not be constructed in the following manner which could interfere with response actions at the Site: structures and/or rail lines or other features that would damage, puncture, or otherwise reduce the pipe flow capacity of the Mine Water Line and access to or operation of its related maintenance system (including the pigging launch system) which is located primarily within the mine yard area; and

(3) Ensuring that any new structures and/or waste piles on the Property will be constructed in a manner which will minimize potential risk of inhalation/ingestion of contaminants.

28. If EPA determines in a decision document prepared in accordance with the NCP that institutional controls in the form of state or local laws, regulations, ordinances, zoning restrictions, or other governmental controls or notices are needed regarding the Property, Settling Defendant shall cooperate with EPA's efforts to secure and ensure compliance with such institutional controls.

29. Notice to Potential Successors-in-Title

a. Settling Defendant shall, within 15 days after the Effective Date, submit for EPA approval a notice to be filed regarding the Property in the appropriate land records. The notice must: (1) include a proper legal description of the Property; (2) provide notice to all potential successors-in-title: (i) that the Property is part of, or related to, the Site; (ii) that EPA performed a response action for the Site; and (3) identify EPA's Record of Decision, as amended, issued December 2001, requiring implementation of the response action. Settling Defendant shall record the notice within 10 days after EPA's approval of the notice and submit to EPA, within 10 days thereafter, a certified copy of the recorded notice.

b. Settling Defendant shall, prior to entering into a contract to Transfer its Property, or 60 days prior to Transferring its Property, whichever is earlier:

(1) Notify the proposed transferee that EPA performed a response action regarding the Site; and

(2) Notify EPA of the name and address of the proposed transferee and provide EPA with a copy of the above notice that it provided to the proposed transferee.

30. In the event of any such Transfer of the Property, unless the United States otherwise consents in writing, Settling Defendant shall continue to comply with its obligations under the Consent Decree.

31. Notwithstanding any provision of the Consent Decree, the United States retains all of its access authorities and rights, as well as all of its rights to require institutional controls, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statute or regulations.

XIII. ACCESS TO INFORMATION

32. Settling Defendants shall provide to EPA, upon request, copies of all records, reports, documents, and other information (including records, reports, documents, and other information in electronic form) (hereinafter referred to as "Records") within their possession or control or that of their contractors or agents relating to activities at the Site or to the implementation of this Consent Decree, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information regarding the Site.

33. Privileged and Protected Claims

a. Settling Defendants may assert that all or part of a Record is privileged or protected as provided under federal law, provided they comply with Paragraph 33.b, and except as provided in Paragraph 33.c.

b. If Settling Defendants assert a claim of privilege or protection, they shall provide Plaintiff with the following information regarding such Record: its title; its date; the name, title, affiliation (e.g., company or firm), and address of the author, each addressee, and of each recipient; a description of the Record's contents; and the privilege or protection asserted. If a claim of privilege or protection applies only to a portion of a Record, Settling Defendants shall provide the Record to Plaintiff in redacted form to mask the privileged or protected information only. Settling Defendants shall retain all Records that they claim to be privileged or protected until the United States has had a reasonable opportunity to dispute the privilege or protection claim and any such dispute has been resolved in the Settling Defendants' favor.

c. Settling Defendants may make no claim of privilege or protection regarding:

(1) any data regarding the Site, including but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, radiological, or engineering data, or the portion of any other Record that evidences conditions at or around the Site; or

(2) the portion of any Record that Settling Defendants are required to create or generate pursuant to this Consent Decree.

34. **Business Confidential Claims.** Settling Defendants may assert that all or part of a Record submitted to Plaintiff under this Section or Section XIV (Retention of Records) is business confidential to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. 2.203(b). Settling Defendants shall segregate and clearly identify all Records or parts thereof submitted under this Consent Decree for which Settling Defendants assert a business confidentiality claim. Records that Settling Defendants claim to be confidential business information will be accorded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies Records when they are submitted to EPA, or if EPA has notified Settling Defendants that the Records are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2 Subpart B, the public may be given access to such Records without further notice to Settling Defendants.

35. Notwithstanding any provision of this Consent Decree, the United States retains all of its information gathering and inspection authorities and rights, including enforcement actions related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

XIV. RETENTION OF RECORDS

36. Until 10 years after the Effective Date, each Settling Defendant shall preserve and retain all non-identical copies of Records now in its possession or control or that come into its possession or control, that relate in any manner to its liability under CERCLA with respect to the Site, provided, however, that Settling Defendants who are potentially liable as owners or operators of the Site must retain, in addition, all Records that relate to the liability of any other person under CERCLA with respect to the Site. Each of the above record retention requirements shall apply regardless of any corporate retention policy to the contrary.

37. At the conclusion of the record retention period, Settling Defendants shall notify EPA and DOJ at least 90 days prior to the destruction of any such Records, and, upon request by EPA or DOJ, and except as provided in Paragraph 33 (Privileged and Protected Claims), Settling Defendants shall deliver any such Records to EPA.

38. Each Settling Defendant certifies individually that, to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any Records (other than identical copies) relating to its potential liability regarding the Site since notification of potential liability by the United States or the State and that it has fully complied with any and all EPA and State requests for information regarding the Site pursuant to Sections 104(e) and 122(e)(3)(B) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e)(3)(B), Section 3007 of RCRA, 42 U.S.C. § 6927, and state law.

XV. NOTICES AND SUBMISSIONS

39. Whenever, under the terms of this Consent Decree, notice is required to be given or a document is required to be sent by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. Except as otherwise provided, notice to a Party by email (if that option is provided below) or by regular mail in accordance with this Section satisfies any notice requirement of the Consent Decree regarding such Party.

As to DOJ by email: eescdcopy.enrd@usdoj.gov
Re: DJ# 90-11-3-128/3

As to DOJ by mail: EES Case Management Unit
U.S. Department of Justice
Environment and Natural Resources Division
P.O. Box 7611
Washington, D.C. 20044-7611
Re: DJ # 90-11-3-128/3

As to EPA: Ed Moreen, Remedial Project Manager
U.S. Environmental Protection Agency, Region 10
1910 Northwest Blvd., Suite 208
Coeur d'Alene, ID 83814

As to Settling Defendants: Bob Hopper
709 S. Division Street
Kellogg, Idaho 83837

XVI. RETENTION OF JURISDICTION

40. This Court shall retain jurisdiction over this matter for the purpose of interpreting and enforcing the terms of this Consent Decree.

XVII. INTEGRATION/APPENDICES

41. This Consent Decree and its appendices constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Consent Decree. The Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Consent Decree. The following appendices are attached to and incorporated into this Consent Decree: "Appendix 1" is the Lease Agreement and Option to Purchase, which includes a complete list of parcels to be leased and/or sold to Liberty Silver and subject to this Consent Decree; "Appendix 2" is the Settlement Agreement between the United States and Bunker Hill

Mining incorporated by reference herein; "Appendix 3" is a Draft Joint Stipulation dismissing Settling Defendants' action against the United States pending in the Court of Federal Claims; and "Appendix 4" is the Site Map.

XVIII. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

42. This Consent Decree shall be lodged with the Court for a period of at least 30 days for public notice and comment. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations that indicate that this Consent Decree is inappropriate, improper, or inadequate. Settling Defendants consent to the entry of this Consent Decree without further notice.

43. If for any reason this Court should decline to approve this Consent Decree in the form presented, this agreement is voidable at the sole discretion of any Party and the terms of the agreement may not be used as evidence in any litigation between the Parties.

XIX. SIGNATORIES/SERVICE

44. Each undersigned representative of a Settling Defendant and the Assistant Attorney General, U.S. Department of Justice, Environment and Natural Resources Division, certifies that he or she is authorized to enter into the terms and conditions of this Consent Decree and to execute and bind legally such Party to this document.

45. Each Settling Defendant agrees not to oppose entry of this Consent Decree by this Court or to challenge any provision of this Consent Decree, unless the United States has notified Settling Defendants in writing that it no longer supports entry of the Consent Decree.

46. Each Settling Defendant shall identify, on the attached signature page, the name and address of an agent who is authorized to accept service of process by mail on behalf of that Party with respect to all matters arising under or relating to this Consent Decree. Settling Defendants hereby agree to accept service in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including but not limited to, service of a summons.

XX. FINAL JUDGMENT

47. Upon entry of this Consent Decree by the Court, this Consent Decree shall constitute the final judgment between and among the United States, and the Settling Defendants. The Court enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

SO ORDERED THIS ____ DAY OF _____, 20__:

United States District Judge

FOR THE UNITED STATES OF AMERICA:

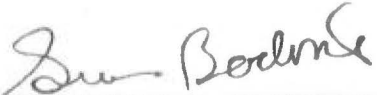
3/3/18
Date

Jeffrey H. Wood
JEFFREY H. WOOD
Acting Assistant Attorney General
U.S. Department of Justice
Environment and Natural Resources Division

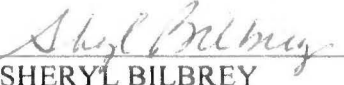
3-12-18
Date

Frederick S. Phillips
FREDERICK S. PHILLIPS, Senior Trial Attorney
Environmental Enforcement Section
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
202.305.0439
Frederick.phillips@usdoj.gov

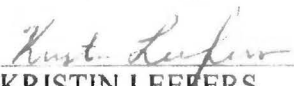
3/8/18
Date


SUSAN BODINE
Assistant Administrator for Enforcement and
Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

3/6/18
Date

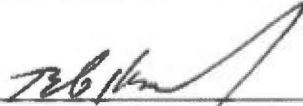

SHERYL BILBREY
Director, Office of Environmental Cleanup
U.S. Environmental Protection Agency
Region 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

3/6/18
Date


KRISTIN LEEPERS
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

FOR PLACER MINING COMPANY:

1/31/18
Date


Name (print): BOB HOPPER
Title: PRESIDENT
Address: 709 S DIVISION ST
KELOOG IDAHO 83837

FOR ROBERT HOPPER, JR.:

1/31/18
Date



Agent Authorized to Accept Service on Behalf of Above-signed Party:

Name: BOB HOPPER
Title: PRES.
Address: 709 S. DIVISION ST
Phone: 307-321 4529
email: BUNKER HILL L MINING @ GMAIL